

CITY OF BRAWLEY
April 2, 2019

The City Council of the City of Brawley, California met in special session at 5:00 PM, City Council Chambers, 383 Main, Brawley, California, the date, time and place duly established for the holding of said meeting. The City Clerk attests to the posting of the agenda pursuant to G.C. §54954.2.

Mayor Wharton called meeting to order @ 5:00PM

PRESENT: Couchman, Hamby, Kastner-Jauregui, Nava, Wharton
ABSENT: None

INVOCATION Pastor Mark Sharpe, Valley Baptist

PLEDGE OF ALLEGIANCE CM Couchman

1. APPROVAL OF AGENDA

The agenda was **approved** as submitted. m/s/c Nava/Couchman 5-0

2. CLOSED SESSION

POTENTIAL LITIGATION (C.G.C. Section §54956.9)

- a. Conference with Legal Counsel – One (1) case

CONFERENCE WITH LABOR NEGOTIATOR

- a. Agency Designated Representative: Rosanna Bayon Moore, City Manager
Employee Organization: Brawley Police Sergeants' Association, Brawley Public Safety Employees Association and Brawley Firefighters Association

3. RECONVENE FOR OPEN SESSION AT 6:00PM

4. PUBLIC APPEARANCES/COMMENTS (Not to exceed 4 minutes) this is the time for the public to address the Council on any item not appearing on the agenda that is within the subject matter jurisdiction of the City Council. The Mayor will recognize you and when you come to the microphone, please state your name for the record. You are not allowed to make personal attacks on individuals or make comments which are slanderous or which may invade an individual's personal privacy. Please direct your questions and comments to the City Council.

Mayor Wharton stated that he appreciates everyone's patience. Everyone will be given an opportunity for public comments. Labor negotiations are ongoing between the City and bargaining units. It is an important process that the City Council respects. With reference to Brawley's men and women in uniform, the City Council appreciates public safety. The City Council is unable to get into specifics in a public comment period. All present are invited and encouraged to be a part of the budget process. There are multiple upcoming meetings including a General Fund Workshop and Enterprise and Special Funds Workshop. These meetings are a great opportunity for more detailed discussion.

- a. **Robert Sawyer, Police Chief** introduced newly hired Police Officer Javier Martinez.
- b. **Marjo Mello, Library Director**, invited everyone to the Book Sale that will take place on Saturday, April 13, 2019 from 9am - 1pm and on May 4, 2019; the library will host a Comic Book Day starting at 10am including Mr. Garcia from Holtville, an artist who will be giving signed copies of his comic books.

- c. **Mayor Wharton** read and presented **Marjo Mello, Library Director**, with a proclamation proclaiming the week of April 7-13, 2019 as National Library Week in the City of Brawley.
- d. **Eric Reyes, Brawley resident**, stated he was here to thank the City and all the departments that worked with him on the 15th Annual Cesar Chavez Celebration on March 30.
- e. **Kay Pricola, COLAB**, reported her attendance on behalf of 8th Street stakeholders. The City of Brawley's portion is almost done. She thanked the City Council and commented that she had the opportunity to drive it several times.
- f. **Mike Morris, Owner of Brawley Quick Lane**, stated he was present to discuss public safety concerns and to plead with the City Council that the City needs to help staff. He is friends with Brawley police officers who can barely feed their families. He objects because they are here to take care of Brawley, its businesses and its residents.
- g. **Shannon Colace, Brawley Resident**, stated she was present on behalf of the Brawley Police Department. She stated she knows many City Council Members personally and she is a concerned citizen. Crime is increasing. Drugs are on the rise. Brawley Police Department goes beyond to protect everyone. They risk their lives every day. They sacrifice for Brawley's families. It is her understanding that Brawley Police Department has not had a raise for ten years. Brawley is not keeping pace with compensation in comparison to Imperial and El Centro. When the City takes care of police officers, they take care of local businesses; protect local children, families, and neighborhoods.

Mayor Wharton indicated that the City is going to respect the process. The City aims to be respectful of all of its men and women in uniform at PD and its entire represented staff who are currently in negotiations.

- h. **Brooks Hamby, Brawley Resident**, stated he has resided in Brawley for 23 years. The City's unsustainable growth model and developer handouts are responsible for the perpetual lack of funds available to invest in public safety officers. While the City is unable to offer living wages to police officers and firefighters, it is considering exempting an outside developer over \$2 million in fees and revenue that the City desperately needs. Budgets are tight. If the City of Brawley is unable to provide police and fire the wages, they deserve, it is the result of irresponsible financial and land use planning that has weakened the City's ability to invest in things that matter most to the citizens of Brawley.
- i. **Dee Mc-Broom Cato, Brawley Resident**, stated that she was born, raised and still lives in Brawley. She welcomed the new Police Officer and is thrilled he is joining the City. She hopes his children will attend a local school. She invited everyone to join Saturday for a beautification day at Phil Swing School from 8am to 12pm. Phil Swing is accepting donations of flowers.

5. CONSENT AGENDA Items are approved by one motion. Council Members or members of the public may request consent items be considered separately at a time determined by the Mayor.

The consent agenda was **approved** as submitted. m/s/c Couchman/Nava 5-0

AYES: Couchman, Hamby, Kastner-Jauregui, Nava, Wharton
NAYES: None
ABSENT: None
ABSTAIN: None

- a. **Approved** Accounts Payable: March 29, 2019
- b. **Approved** City Council Minutes: March 19, 2019 and March 26, 2019

6. CONTINUED PUBLIC HEARING (ANTICIPATED TIME OF 6PM)

- a. Modification of the Conditions of Approval for the Latigo Ranch (TM05-01) Major Subdivision.

Staff Presentation by Rosanna Bayon Moore, City Manager, Gordon Gaste, Community Development Director and Guillermo Sillas, Public Works Director.

The Latigo Ranch Tentative Tract Map was approved by the City in June of 2005. The Tentative Tract Map consists of 2 units and 268 single-family residential lots. The Final Map for Unit 1 was recorded in November 2005 with the associated Improvement Plans. Unit 1 contains 113 single-family residential lots and is generally located in the northern half of the Latigo Ranch subdivision. A total of 18 single residential units have been constructed to date and are currently occupied.

The prior developer and current owner is McMillin Homes. McMillin did not complete the required offsite improvements for Unit 1. Offsite improvements for Unit 1 yet to be completed include a portion of Western Avenue a portion of South Imperial Avenue, landscaping at the retention basin and Wildcat Drive from South Western Avenue to South Imperial Avenue per the final map. Wildcat Drive improvements include the undergrounding of the Best Canal and development of a greenbelt adjacent to Wildcat Drive.

Unit 2 is currently entitled through November 2021 and contains 113 residential units. No Final Map or Improvement Plans have been submitted to date for Unit 2. Brawley Investment Ventures, represented by Mr. Marty Coyne, is currently in escrow and proposing to resume development activities within the subdivision. Brawley Investment Ventures is seeking relief from certain conditions that are the subject of a public hearing before the City Council. The Condition Modification action will provide the applicant with the clarity needed to make a final decision regarding the purchase of the remaining Lots of Unit 1 and Unit 2 in its entirety.

The City of Brawley Planning Commission considered the project on March 6, 2019. A public hearing was held and public input was solicited and received. One of the major features discussed was the open canal and the desired construction and completion of Wildcat Drive. The Planning Commission took action on the request for Condition Modification and has advanced a recommendation to the City Council.

The City of Brawley has met extensively with Mr. Coyne to explore reasonable changes to the project's Conditions of Approval. Staff has presented a package for City Council consideration. The staff recommendation includes an offset of approximately \$2M in fees and project costs.

Marty Coyne, Project Developer, stated that this project could bring the City of Brawley back to life. The City is shrinking rather than growing. This is a rescue project. He stated he wants to be part of Brawley and this may only be the first part of it. He is also in the retail business with sales tax dollars generation. There has not been a lot of growth and activity in the City of Brawley for a long time. The goal is to bring revenue to Brawley.

He commented that he has other projects in other cities, including Coyne Power Sports and a once bankrupt Bowling Alley. He has local with a track record with over 100 employees working for different companies. After three and a half hours with the Brawley Planning Commission, a 7-0 vote was reached with the group that includes real estate professionals and brokers. They understand the financial challenges of the subdivisions and the market conditions that exist today.

OPENED PUBLIC HEARING @6:37pm

Various public comments were entered into the record by Brooks Hamby, Eric Reyes, Kevin Smith, Monica Torres, and Robert Ibarra. Additionally, IID Water Department Manager Michael Pacheco, provided an IID update on consideration of the City's request to pipeline the Best Canal.

Public comments in support of the project are summarized as follows:

- Mr. Coyne is the person Brawley needs. He will rescue a broken subdivision. He has a track record.
- Latigo Ranch, as is, is desolate and in need of improvements.
- Growth is welcomed in the subdivision and in the City.
- Clean up of the area is wanted by existing residents.

Public comments in opposition are summarized as follows:

- The developer's comments exemplify a "hostage negotiation" with threats of litigation.
- The developer has directed offensive comments towards Brawley residents.
- The economic development opportunity presented is short term with long-term negative consequences.
- The City is heavy on residential development and is not expanding its business development.
- Developers need to pay their fair share.
- Development Impact Fees were phased and never fully implemented. Developers are already receiving relief from the fully implemented DIF rate.
- When fees are not assessed on developers, the City and its existing residents pay for it.
- The canal needs to be covered because it poses a danger to pedestrians, kids and travelers in the area.
- Delays of 10 years or more to underground the Best canal are not acceptable.

General comments and concerns are summarized as follows:

- Growth is good but the City has to look at the cost of growth.
- The temporary entrance off South Imperial Avenue has limitations. The entry point needs to be improved before new home construction starts.
- Additional traffic and population may make the area less safe for children playing.
- Fencing of the Best Canal may be an eyesore.

Mike Pacheco, IID Water Department Manager, stated that IID staff is working with the IID Board on this project. Additional information is being collected about funding for the Best Canal pipeline project. The item is scheduled to return to the Board in the near future. Director Cardenas is very involved in this project and looking for any possibility of funding for the City.

CLOSED PUBLIC HEARING @ 7:19pm

The City Council extensively discussed and deliberated regarding the requested condition modification and public input. Primary topics included the balance of residential vs. commercial development, the Best canal undergrounding, IID's potential answer to the City's request for assistance, the temporary vs. ultimate configuration of Wildcat Drive, real estate in lieu of traditional security and use of a licensed real estate appraiser, the release of the first 50 building permits, Legion Road, Western Avenue.

The City Council and staff presented several alternative conditions.

3A. Proposed Condition Modification.

- a) Security.
 - i. Brawley Investment Ventures, LLC shall post security for all onsite and offsite improvements in the form of a traditional bond, letter of credit and/or property in lieu of bonds based on property values established by a CA licensed real estate appraiser.

- b) Best Canal Undergrounding.
 - i. The City of Brawley shall provide Brawley Investment Ventures, LLC a period of 60 days from April 3, 2019 to receive IID's formal commitment of funds to support undergrounding of the Best Canal from S. 1st St. to S. Imperial Ave.

- ii. The Developer, Brawley Investment Ventures, LLC, shall deposit the remaining balance of the project cost for design and construction of the Best Canal undergrounding concurrent with the posting of security and City Council approval of the Subdivision Improvement Agreement.
 - iii. The Developer shall pay and/or provide security in the amount of 25% or 50% of the undergrounding cost of the Best Canal and any actual cost difference with IID committed funds.
 - iv. IID shall commence with construction of the undergrounding of the Best Canal from S. 1st St. to S. Imperial Ave. within a period of 12 months beginning April 3, 2019. If the Best Canal pipelining work does not commence, this Condition Modification shall not be valid.
 - v. In no way does IID's commitment of funds or the Developer's deposit of a portion of the funds required relieve the Developer of the financial responsibility to perform the construction of the Best Canal undergrounding.
 - vi. If the City of Brawley does not receive IID communication in the aforementioned terms during the 60 day period which begins April 3, 2019, or if IID's commitment is for pipelining work that will commence beyond the 12 month time horizon which begins April 3, 2019, this Condition Modification shall expire immediately and the Developer shall be wholly financially responsible for the construction of the Best Canal undergrounding.
 - vii. This Condition Modification is only applicable to Brawley Investment Ventures, LLC and shall expire 60 days after April 3, 2019 and 12 months from April 3, 2019 if requirements are not met.
 - viii. This Condition Modification is non-transferable in the event that the undeveloped portion of the subdivision changes ownership.
- c) Building Permits in Unit 1.
- i. With either IID's formal commitment to underground the Best Canal or bonding fully in place, the Developer shall be permitted to pull up to 50 building permits in Unit 1.

18A. Proposed Condition Modification. Construction of the eastern half of Western Ave. adjacent to Unit 1 shall commence prior to the issuance of the 86th building permit in said unit. Construction of the eastern half-adjacent to Unit 2 shall commence prior to the issuance of the 100th building permit in Unit 2.

19A. Proposed Condition Modification. The north half of Legion Street shall be constructed to the standards of a Collector from South Western Avenue to Branding Iron Avenue prior to the issuance of the 51st building permit in Unit 2. From Branding Iron Avenue to the Park/Retention Basin, the developer shall improve Legion Street to an All Weather Road standard approved by the City Engineer.

20A. Proposed Condition Modification. The south half of Panno Drive (Wildcat Drive) shall be constructed to the standards of a Minor Arterial (including medians) from South Western Avenue to Dogwood Road (South Imperial Avenue).

Construction of Wildcat street improvements from 1st St. to S. Imperial Ave. shall commence prior to the Developer obtaining the 51st building permit.

The City Council shall waive the streets portion of Development Impact Fees and recognize construction of Wildcat Drive in lieu of payment along the subdivision boundary.

21A. Proposed Condition Modification. The west half of Dogwood Road / South Imperial Avenue shall be constructed to the standards of a Collector from Panno / Wildcat Drive to the Union Pacific Railroad right of way prior to the issuance of the 73rd building permit in Unit 1.

At the applicant's request to delay action for additional time to review the proposed conditions, the City Council acted to table the decision on the Modification of the Conditions of Approval for Latigo Ranch (TM05-01) Major Subdivision was **tabled** to a future City Council meeting. m/s/c Couchman/Kastner-Jauregui 5-0

7. STRATEGIC PLANNING FOR FISCAL YEAR 2019/2020

a. Overall Discussion and Staff Direction

Power Point Presentation – Rosanna Bayon Moore, City Manager

Rosanna Bayon Moore, City Manager presented content in a Power Point Format, 2019/2020 Goals, Financial Stability, Business Attraction & Retention, Reliable Water, Sewer & Storm water Infrastructure, Clean & Attractive City A Given – Decent Streets, Public Safety, Ordinance Updates.

Mayor Wharton inquired about Relinquishment Funds. How much does the City want to devote to maintenance and above ground improvements? Should a fundamental change in the configuration of Main Street be undertaken? It is going to be a higher priced item. Does the City want to take what it has and make the best of it and stretch those funds as long as possible? The City needs a strategy. It would be ultimately be codified or brought into an ordinance. Council is having a conversation. It is a good time.

CM Kastner-Jauregui stated that the public inquires about the relinquishment money. They want to know why the City is not spending it and why the City is sitting on it.

CM Bayon Moore stated it is placed in a standalone fund. When the underground component is described, people understand it. There is a great deal of distaste for the idea of ripping up a road once it is already improved. It is a leveraging opportunity. The sum of \$9 million is for the life of maintenance needs. It is not necessarily for a one-time project.

CM Couchman stated that the City could not allow the funds to sit the next 9 years without doing anything with them.

CM Kastner-Jauregui stated that the public does not really understand that West Main was a Caltrans Project. People are asking what happened to the rest of Main Street. They are expecting the rest of Main Street to be finished, as well.

CM Hamby asked if it is easier to secure funding for underground work than it would be to find other funding to fix the roadway. Could underground improvements be performed with relinquishment funds?

CM Bayon Moore mentioned that the City has never explored the option to use relinquishment funds for the water line replacement. That project is expected to cost roughly \$4M. That is \$4M out of \$6.5M. It would leave \$2.5 million plus the interest for surface improvements.

CM Nava stated he thinks the answer is yes, the City could use those funds. **CM Bayon Moore** stated it is at the City Council's discretion.

CM Couchman mentioned that if the City undertook the water line replacement project and tore up the street, people would expect it to look good.

CM Bayon Moore indicated that she is not sure that the scale of the Main Street waterline project is fully understood. It is significant and will disrupt the status quo. There is a reason why it is so expensive.

CM Hamby indicated the City could take the entire \$6.5 million, do as much as possible with undergrounding, and surface improvements. The City could seek funding to finish wherever it ended with grants or financing options.

CM Bayon Moore commented that that various approaches are possible.

CM Hamby asked about the Transient Occupancy Tax, its current structure, whether it could be structured differently.

CM Bayon Moore mentioned that the TOT was audited. One of the results was the City's need to update its process, procedures and forms for existing Motel Operators. When Ms. Walla departed, the task was transferred to Ms. Ramirez. The work is currently suspended but will be revisited once the City's permanent Finance Director is named. The City Council previously considered an increase of the TOT but saw the value of an audit in advance of that undertaking.

CM Kastner-Jauregui mentioned that the Ordinance states you cannot tax on long stays. Can that be changed?

CM Bayon Moore stated it is tied to the original ballot language but she could work with the City Attorney.

CA Smerdon will research but his recollection is that State Law says TOT has to be limited.

8. DEPARTMENTAL REPORTS

- a. Monthly Staffing Report for April 2019 – Shirley Bonillas, Personnel & Risk Management.

9. CITY COUNCIL MEMBER REPORTS

Hamby: Attended Josefina Valadez's 100th Birthday Celebration at the Senior Center, Parks & Recreation Commission Meeting, Planning Commission Meeting, and vigil for Ryan Harsany. Participated in cleanup on Main Street along with the Chamber of Commerce, helped with the Eagle Scout Fencing Project by the Ag Station and met with Gordo Gaste and Oscar Escalante re a Senior Center project.

Couchman: Attended COLAB Breakfast, Cesar Chavez Celebration, United Way Night at the Races and Ribbon Cutting for the City of Imperial Transit Station.

Nava: Thanked the Brawley Fire Department and AMR Ambulance Service along with Pioneers Memorial Hospital, for assisting his mother in need of medical services.

Kastner-Jauregui: Presented a Key to the City to Ms. Valadez, attended PMHD focus group meeting, League Dinner, Chamber Monthly Meeting, Chamber cleanup on Main Street, Cesar Chavez Celebration, Imperial Film Commission Meeting and a fundraiser for Ryan Harsany.

Wharton: Attended many of t events mentioned by colleagues.

10. CITY MANAGER REPORT

- a. Attended City of Imperial ribbon cutting for the Transit Station.
- b. Currently in dialogue with AMR re: an extension on the license agreement.

11. CITY ATTORNEY REPORT

- a. Sylvia's Thrift Shop is almost empty.

12. CITY CLERK REPORT None to report.

13. ADJOURNMENT @ 9:35 pm

Alma Benavides, City Clerk